

## FOOD STAMP PROGRAM REQUEST FOR REGULATION INTERPRETATION

**INSTRUCTIONS:** Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. Retain a copy of the FS 24 for your records. For counties asking for policy interpretations, submit the question directly to a FRAT representative via e-mail. For other organizations (e.g., Quality Control, Administrative Law Judges), submit questions directly to the Food Stamp Policy Implementation Unit or Employment and Special Projects Unit representative via e-mail.

|                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                   |                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| 1. RESPONSE NEEDED DUE TO:<br><input checked="" type="checkbox"/> Policy/Regulation Interpretation<br><input type="checkbox"/> QC<br><input type="checkbox"/> Fair Hearing<br><input type="checkbox"/> Immediate Need/Emergency Services<br><input type="checkbox"/> Other: | 5. DATE OF REQUEST:<br>05-03-11                                                                                                                                                                   | NEED RESPONSE BY:<br>ASAP |
| 2. REQUESTOR NAME:                                                                                                                                                                                                                                                          | 6. COUNTY/ORGANIZATION:<br>FRESNO                                                                                                                                                                 |                           |
| 3. PHONE NO.:                                                                                                                                                                                                                                                               | 7. SUBJECT:<br>RESIDENTS OF HOMELESS SHELTERS                                                                                                                                                     |                           |
| 4. REGULATION CITE(S):                                                                                                                                                                                                                                                      | 8. REFERENCES: (Include ACL/ACIN, court cases, etc. in references)<br><b>NOTE: All requests must have a regulation cite(s) and/or a reference(s).</b><br>63-402.4<br>63-102 (m)(5)<br>63-104.21 j |                           |

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):  
 Residents of Public or Private nonprofit of Shelters for Homeless Persons

### Background

Individuals will be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services. Residents of institutions are not eligible for participation in the Food Stamp Program (FSP). As commercial boarding houses fall under this category, residents of commercial boarding houses are not eligible for participation in the FSP. However, residents of Shelters for homeless Persons will not be considered as residents of institutions and may voluntarily apply for the FSP. Shelters that do not serve meals as part of their normal services are not classified as institutions. Residents of this type of shelter may participate in the Food Stamp Program as individual household units or as part of a group of individuals like any other household. +

10. REQUESTOR'S PROPOSED ANSWER:

11. FRAT RESPONSE TO COUNTY QUESTION:

12. STATE POLICY RESPONSE (FSPIU USE ONLY):

### Questions:

1. 63-104.21 j. (Document 3), approval of meal providers, how is this regulation relevant to counties since certification is done by FNS. CWD approval as a Homeless Meal Provider is a prerequisite for receiving authorization from FNS to accept CalFresh benefits from homeless persons for the purchase of prepared meals. See 7 CFR 272.9.

2. Can a homeless shelter provide meals and not be certified by FNS and the resident still qualify to the FSP? Yes, non-certified homeless shelter residents may apply for CalFresh on the same basis as any other household. See 7 CFR 273.2(a)(1).

3. Does certification/license by a local agency only apply to public institutions? Neither 7 CFR 272.9, nor MPP 63-104.21 differentiates between public or private nonprofit homeless meal providers. Regulations at 7 CFR 271.2(h)(1) and MPP 63-102(m) define meal +

### FOR FRAT USE

|                |                           |                          |
|----------------|---------------------------|--------------------------|
| DATE RECEIVED: | DATE RESPONDED TO COUNTY: | DATE FORWARDED TO STATE: |
|----------------|---------------------------|--------------------------|

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

## Residents of Public or Private nonprofit of Shelters for Homeless Persons

### Background

Individuals will be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services. Residents of institutions are not eligible for participation in the Food Stamp Program (FSP). As commercial boarding houses fall under this category, residents of commercial boarding houses are not eligible for participation in the FSP. However, residents of Shelters for homeless Persons will not be considered as residents of institutions and may voluntarily apply for the FSP. Shelters that do not serve meals as part of their normal services are not classified as institutions. Residents of this type of shelter may participate in the Food Stamp Program as individual household units or as part of a group of individuals like any other household. The guidelines in this Policy and Procedure Guide (PPG) do not apply to these households. This PPG will provide guidance for individuals residing in shelters which provide meals as part of their normal services.

### Definitions:

**Public Institution:** Institution which provides shelter, custody and care and for which a governmental unit has responsibility or exercises administrative control. In the county of Fresno, there are no public institutions.

**Private Institution:** Non-governmental institution which provides shelter, custody and care and which is required by State law to have a license to operate.

**Nonprofit:** not established for the purpose of making a profit. It does not distribute its surplus funds to owners or shareholders, but instead uses them to help pursue its goals.

**Meal Provider for the homeless:** a homeless shelter or soup kitchen which has been authorized by the Food and Nutrition Service (FNS) to accept EBT. Homeless food stamp households are allowed to use their food stamp benefits to purchase prepared meals from homeless meal providers. Homeless meal providers may not act as authorized representatives for homeless food stamp recipients.

### General Guidelines

When certifying a household whose residence is a homeless shelter, prior to certifying the household the EW must establish that the shelter is:

Licensed/certified (state or local agency) AND  
Certified by FNS

No shelter can require residents to use or turnover any portion of their food stamp benefits. It is the responsibility of the EW to inform the applicant/client of this rule and

include in case comments that it was done. If the worker receives information which alleges that a shelter is asking for the resident to turnover their benefits, send an email to DSS PSOA mail box. The Food Stamp Program Specialist will follow up as appropriate.

Questions:

1. 63-104.21 j., approval of meal providers, how is this regulation relevant to counties since certification is done by FNS.
2. Can a homeless shelter provide meals and not be certified by FNS and the resident still qualify to the FSP?
3. Does certification/license by a local agency only apply to public institutions?
4. Does the certification/license differ if the shelter is a provided by a church?
5. What if the shelter has a fee which charged and is owed if the individual has a source of income?
6. What if the shelter depends on donations (food or monetary) to provide meals?
7. Per ACIN I-04-04, the stay must be time limited; is the statement that they can stay for as long as they need, mean that it is not time limited. Unless an individual is purchasing their home, would it be fair to say that all residencies are time limited? Or is there a time limit, example, 12 months?
8. Why did the State not provide regulatory information as it did for the other groups under 63-402.4?
9. Same ACIN, does primarily mean that if there are other individuals who make it their home, it does not impact the homeless shelter determination? Would that individual then not be considered homeless based on that fact that this is their residence?
10. Must there be a resident supervisor on premises?
11. What if the residents have family but they are in the facility for some type of program or ministry?

Research Material

63-402.4 page 16

63-102 (m)(5) page 21

63-104.21 j. page 48

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=8864d944d2669b8bfcf94a36e5013f8f&rgn=div5&view=text&node=7:4.1.1.3.21&idno=7#7:4.1.1.3.21.1.1.1>

Read more: nonprofit: meaning and definitions — Infoplease.com

<http://dictionary.infoplease.com/nonprofit#ixzz12v2tJlx1>

[http://www.wvdhhr.org/bcf/policy/imm/New\\_Manual/IMManual/Manual\\_PDF\\_Files/Chapter\\_14/ch14\\_2.pdf](http://www.wvdhhr.org/bcf/policy/imm/New_Manual/IMManual/Manual_PDF_Files/Chapter_14/ch14_2.pdf):

<http://en.wikipedia.org/wiki/Organization>

Residents of shelters for the homeless are not considered residents of an institution and, if otherwise eligible, qualify for participation in the Program. SNAP benefits may be used to purchase meals prepared by approved homeless meal providers.

[http://dss.sd.gov/foodstamps/FSManual/html/5310\\_sdfscm.htm](http://dss.sd.gov/foodstamps/FSManual/html/5310_sdfscm.htm):

Shelters that do not serve meals as part of their normal services are not classified as institutions. Residents of this type of shelter may participate in the Food Stamp Program as individual household units or as part of a group of individuals like any other household. They are not eligible for the provisions described in this section.

Homeless food stamp households shall be permitted to use their food stamp benefits to purchase prepared meals from homeless meal providers. Homeless meal providers may not act as authorized representatives for homeless food stamp recipients. Shelters or establishments for the homeless must be approved (licensed/certified) by an appropriate State or local agency and must be authorized by FNS as a retail food store. Such meal providers must be public or private non-profit organizations as defined by the Internal Revenue Service (I.R.C. 501(c)(3)) and must serve meals that include food purchased by the provider. Homeless meal providers serving meals, which consist wholly of donated food, shall not be eligible for authorization to accept food stamp benefits as payment for meals.

Homeless food stamp households shall be permitted to use their Food Stamp benefits to purchase prepared meals from homeless meal providers.

<http://www.fns.usda.gov/snap/rules/Legislation/history/1986.htm>:

Omnibus Drug Enforcement, Education, and Control Act  
P.L. 99-570, 100, Stat. 3207-3207-192  
Oct. 27, 1986

Included in the definition of "food" meals served to the homeless by public or private nonprofit establishments that feed the homeless (i.e., soup kitchens) or shelters that contract with State agencies to feed the homeless at concessional prices.

Made the use of food stamps to pay for meals in soup kitchens/shelters voluntary and prohibited requests for more than the average cost of the food contained in a meal served by the soup kitchens/shelters.

Included the homeless in the definition of "household".

Extended the FSP to residents of institutions for the homeless.

Included soup kitchens/shelters in the definition of "retail food store".

Prohibited soup kitchens/shelters from redeeming food stamps at banks/savings and loans.

Required the Secretary to provide the House and Senate Agriculture Committees with an evaluation of the program established for the homeless by P.L. 99-570 by September 30, 1988.

Required the Secretary to limit the participation of soup kitchens/shelters in areas where the Secretary in consultation with OIG finds evidence that such participation damages program integrity unless the soup kitchen/shelter in question is the only one serving the area.

Amended the SSA to require the Secretaries of DHHS and USDA to develop a procedure so that individuals can apply for the FSP and SSI on a single application prior to their release from a public institution.

[http://www.fns.usda.gov/SNAP/rules/Memo/PRWORA/99/Section\\_805.htm](http://www.fns.usda.gov/SNAP/rules/Memo/PRWORA/99/Section_805.htm):

the 90 day does not apply these households

12. STATE POLICY RESPONSE (FSPIU USE ONLY):

Questions:

1. 63-104.21 j. (Document 3), approval of meal providers, how is this regulation relevant to counties since certification is done by FNS. CWD approval as a Homeless Meal Provider is a prerequisite for receiving authorization from FNS to accept CalFresh benefits from homeless persons for the purchase of prepared meals. See 7 CFR 272.9.

2. Can a homeless shelter provide meals and not be certified by FNS and the resident still qualify to the FSP? Yes, non-certified homeless shelter residents may apply for CalFresh on the same basis as any other household. See 7 CFR 273.2(a)(1).
3. Does certification/license by a local agency only apply to public institutions? Neither 7 CFR 272.9, nor MPP 63-104.21 differentiates between public or private nonprofit homeless meal providers. Regulations at 7 CFR 271.2(h)(1) and MPP 63-102(m) define meal provider for the homeless as a public or private nonprofit establishment that feeds homeless persons.
4. Does the certification/license differ if the shelter is provided by a church? There is no difference between faith based organizations and other homeless meal providers in regards to CWD certification outlined at MPP 63-104.21(j). (Churches are generally 501(c)(3) non-profits.)
5. What if the shelter has a fee which charged and is owed if the individual has a source of income? Regulations at MPP 63-102(h)(2) do not specify different treatment if a shelter charges or not. MPP 63-102(h)(2)(A) states a homeless individual is one whose primary nighttime residence may be a supervised shelter designed to provide temporary accommodations (such as a congregate shelter or a welfare hotel...) A welfare hotel, by definition, charges a fee yet there is no delineation of different treatment.
6. What if the shelter depends on donations (food or monetary) to provide meals? Soup kitchens and other homeless meal providers may not make people pay with CalFresh benefits for food they got for free or for any of their costs cooking the food. See 7 CFR 278.2(b).
7. Per ACIN I-04-04(Document 4), the stay must be time limited; is the statement that they can stay for as long as they need, mean that it is not time limited. Unless an individual is purchasing their home, would it be fair to say that all residencies are time limited? Or is there a time limit, example, 12 months? ACIN I-04-04 states the guidelines it suggests do not supersede regulations. Further, the letter suggests that CWDs consider if a facility has a time limit of residency, this is not a sole determining factor, but one of many to be considered. By nature homeless shelters offer temporary shelter. Homeless individuals residing in another person's residence, but not shelters, have a 90-day provision, see 7 CFR 271.2 and MPP 63-102(h)(2).
8. Why did the State not provide regulatory information as it did for the other groups under 63-402.4? (Document 1) CDSS will consider language and references to further clarify what are residents of public or private nonprofit shelters for homeless persons with the next regulation cleanup package. In the interim, see MPP 63-102(h)(2) for the definition of a homeless individual.
9. Same ACIN, does primarily mean that if there are other individuals who make it their home, it does not impact the homeless shelter determination? Would that individual then not be considered homeless based on that fact that this is their residence? The

use of the word 'primarily' on page one of the ACIN intends no further suppositions other than the individuals the shelter usually admits are homeless. See answer to number seven, above.

10. Must there be a resident supervisor on premises? Per MPP 63-102(h)(2), in the definition of a homeless individual, one of the specified locations a homeless individual may seek nighttime residence is "a supervised shelter designed to provide temporary accommodations." Residency is not a requirement.

11. What if the residents have family but they are in the facility for some type of program or ministry? The determination of whether an individual or group is homeless is not dependent on the housing circumstances of other family members. See MPP 63-102(h)(2) for the definition of a homeless individual.